

No. 9(1)81-8Lab/2607.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s The General Manager, Milk Plant, Ambala.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT HARYANA  
ROHTAK

Reference No. 257 of 1978.

between

MISS VARINDER KAUR, WORKWOMAN AND THE MANAGEMENT OF M/S. THE  
GENERAL MANAGER, MILK PLANT AMBALA.

Present :

Shri Lal Singh, for the workman.

Shri Janak Raj Sharma, for the management.

AWARD

This reference has been referred to this Court by the Hon'ble Governor *vide* his order No. ID/Amb/301-77/41537, dated 13th September, 1978 under section 10(i)(c) of the Industrial Dispute Act for adjudication of the dispute existing between Miss Varinder Kaur, lady worker and the management of M/s. Milk Plant Ambala. The term of the reference was :—

Whether the termination of services of Kumari Varinder Kaur was justified and in order ?

If not to what relief is she entitled ?

On the receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance in response to the same, filed their respective pleadings and the following issues were framed on the pleadings of the parties ?

1. Whether the worker lady was employed on part time basis ? If so, to what effect ?
2. Whether the termination of services of the worker lady was justified and in order ?
3. If not, to what relief is she entitled ?

The management examined Shri Jeet Singh Sahni, Assistant as their witness and closed their case. The workman herself appeared as her own witness and closed her case. Arguments were heard and after going through the entire evidence I decide the issues as under :—

ISSUE NO. 1.

It is an admitted fact on both sides that the worker lady was a part time worker but a worker employed on part time basis is fully covered under the definition of workman as given in section 2(S) of the I. D. Act and there are case laws on this point holding a part time doctor to be workman within the definition of section 2(S) of the I. D. Act as is in the case of Arun Mills Ltd. and Dr. Chandra Parkash Shital Vedi published in Haryana Labour Journal 1978 page 60 and also on page 58 in the case titled as S. K. Automobile and Engineering workers Union and the management of Manjunatha Motor Service Udipl where in it was held that the independent booking agent of a transport undertaking working on commission basis is a workman. I fully concur with the views taken by the Labour Court and the High Court in these cases and hold the workman who has been doing her job for 4 to 5 hours a day as a workman and as such the reference in no way badly effected disentitling the worker lady to raise the present dispute. This issue is therefore decided in favour of the worker lady and against the management.

ISSUES NO. 2 AND 3.

The management witness has stated that no notice or notice pay or any retrenchment compensation was given to the worker lady at the time of her termination. Neither any notice to the Appropriate Government was ever given in the prescribed form. As the worker lady has been in continuous services for more than three years prior to her date of termination. She cannot be deemed to be a temporary employee as has been argued by the management representative. The management has further argued that as all the booths were closed and on this very account all the booths manager alongwith the worker lady were dismissed. As is evident the management has not complied with the mandatory provisions contained section 25(F) of the Industrial Dispute Act, rendering the order of termination illegal and void *ab initio*. I therefore set aside the termination order and further ordered that the worker lady is entitled to the normal relief of reinstatement with full back wages. Reference is answered and returned in the above terms.

Dated the 28th February, 1981.

BANWARI LAL DALAL,  
Presiding Officer,  
Labour Court Haryana, Rohtak.

Endorsement No. 566, dated 6th March, 1981.

Forwarded (four copies) to the Secretary to Government of Haryana Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Dispute Act.

BANWARI LAL DALAL,  
Presiding Officer,  
Labour Court Haryana, Rohtak.